

REMARKS/ARGUMENTS

The Office Action mailed August 28, 2006 has been reviewed and carefully considered. Claims 1-2, 6-25, 27-33, and 37-43 are pending in this application, with claims 1, 25, 32, and 43 being the only independent claims. Reconsideration of the above-identified application in view of the following remarks is respectfully requested.

Claims 1, 2, 5-23, 25, 27-33, and 36-43 stand rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,429,612 (Berthier).

Claim 24 stands rejected under 35 U.S.C. §103 as unpatentable over Berthier.

Independent claim 1 recites “said shield being movable by interaction with a patient’s skin from said first position to a second position against the urgency of said urging member when said needle cannula is inserted into a patient for delivery of the medicament, said pin moving along said entry track at least to the intersection and into said lock-out track during movement of said shield from the first position to the second position, and said shield being moveable from said second position to a third position by the urgency of said urging member upon removal of said needle cannula from said patient, wherein said forward tip of said needle cannula is covered by said shield when said shield is in said third position”.

Accordingly, independent claim 1 requires (1) that the shield moves from the first position to the second position against the urgency of the urging member by interaction with the patient’s skin and (2) that the shield is movable by the urging member from the second position to the third position.

Berthier fails to disclose these limitations because Berthier disclose that after a shield is moved from a first position to a second position against an urgency of a spring, the spring does not urge the shield from the second position to a third position. Instead, the shield

must be rotated from the second position to a further position before the spring urges the shield to a third position which covers the needle, wherein the rotation is not against the urgency of the spring.

Berthier discloses a syringe having a needle protector 8 arranged over a cylindrical slideway 7 with a track arrangement having a U-shaped groove 22 with two branches 23, 24 connected by a circumferential groove 25 (see col. 4, lines 35-39 of Berthier). A resilient tongue 26 of the needle protector 8 enters the track arrangement and moves along branch 23 against the urgency of a spring 20. Thus, the second position is the point where branches 23 and 25 meet. The Examiner has indicated that the element 25 of Berthier is considered part of the lockout track. However, the urgency of the spring 20 does not urge the shield from the second position to the third position. Rather, Berthier discloses that the needle protector 8 first has to be rotated from the second position to a further position in which the resilient tongue 26 is aligned with the branch 24 before the resilient tongue can be urged to the third position in which the tip of the needle is covered (see col. 4, lines 53-58 of Berthier).

Since Berthier fails to disclose that the spring 20 is arranged to move the needle protector 8 to the third position from the second position, independent claim 1 is not anticipated by or unpatentable over Berthier.

Independent claims 25, 32, and 43 include similar limitations to independent claim 1 and are allowable for at least the same reasons as is independent claim 1.

Dependent claims 2, 5-24, 27-31, 33 and 36-42, each being dependent on one of independent claims 1, 25, and 32, are deemed to be allowable for at least the same reasons expressed above with respect to independent claims 1, 25 and 32, as well as for the additional recitations contained therein.

The application is deemed to be in condition for allowance and notice to that effect is solicited.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
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